

So Ordered.



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

Dated: September 16th, 2016

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

RICHARD EDWARD LASKER, JR.
and DEBORAH ADAM LASKER,

Debtors.

Case No. 15-03600-FPC13

NOT FOR PUBLICATION

MEMORANDUM DECISION

The court took under advisement the issue of whether debtors' unsecured debt makes them ineligible for Chapter 13 relief. "An individual qualifies for Chapter 13 relief only if his or her debts do not exceed a certain sum at the time of filing." *In re Slack*, 187 F.3d 1070, 1073 (9th Cir. 1999), as amended (Sept. 9, 1999). Pursuant to 11 U.S.C. § 109(e), a debtor is ineligible for Chapter 13 relief if the debtor's noncontingent, liquidated, unsecured debts exceed the statutory limit of \$383,175.00. However, in *In re Scovis*, the Ninth Circuit "explicitly state[d] the rule for determining Chapter 13 eligibility under § 109(e)." *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001). The *Scovis* court explained that to determine the amount of debt owed by a debtor, the bankruptcy court must look to

1 “debtor’s *originally filed schedules*, checking only to see if the schedules were made
2 in good faith.” *In re Scovis*, 249 F.3d at 982 (emphasis added).

3 In this case, creditor NatureWorks Organics filed an unsecured claim (Claim
4 No. 4) against debtors in the amount of \$1,145,845.47.¹ The amount of the claim
5 would appear to disqualify debtors. However, according to *In re Scovis*, the total
6 amount of debt this court should take into account, absent an objection to
7 confirmation based on bad faith, is the amount listed on debtors’ originally filed
8 schedules. *In re Scovis*, 249 F.3d at 982. Accordingly, the court finds that debtors’
9 original petition, filed in good faith, lists this claim at \$210,350.00 and total
10 unsecured debt of \$256,698.72 and this total amount is within the debt limit.
11 Importantly, the court notes that creditor NatureWorks, whose claim potentially
12 pushes debtors over the debt limit, does not object to confirmation of debtors’
13 Chapter 13 Plan (ECF No. 156). Given the lack of objection to confirmation by
14 creditor, and the fact that this court found that debtors filed their schedules in good
15 faith, the court finds debtors’ are not disqualified by 11 U.S.C. § 109(e). The court
16 notes that it is making no finding as to the ultimate value or legitimacy of creditor
17 NatureWork’s claim.

18 ¹ The claim indicates that it is based on a North Carolina Superior Court judgment in Case No.
19 13-cvs-7756. The debtors dispute this claim. The debtors’ initial petition valued this claim on their
20 Schedule D at \$210,350.00 (ECF No. 1). Debtors’ amended Schedule F lists the value of this claim
as “unknown” (ECF No. 10). Debtors filed an objection to the claim (ECF No. 68). A hearing on
the objection is scheduled for March 21, 2017.

1 Based on the foregoing, contemporaneously with memorandum decision, the
2 court will enter an order confirming the Debtors' Chapter 13 Plan.

3 ///END OF MEMORANDUM DECISION///
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